

ESTTA Tracking number: **ESTTA476849**

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91205048
Party	Defendant Danny K. Choi
Correspondence Address	KIT M STETINA STETINA BRUNDA GARRED & BRUCKER 75 ENTERPRISE STE 250 ALISO VIEJO, CA 92656 UNITED STATES
Submission	Answer
Filer's Name	Kit M. Stetina
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Signature	/Kit M. Stetina/
Date	06/07/2012
Attachments	[06 07 12] Answer.pdf ( 5 pages )(554970 bytes )

Case: BESTM-007M

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**  
**IN RE SERIAL NO. 85/451,415**

Habitat for Humanity International, Inc.,	)	Opposition No.: 91205048
	)	
Opposer,	)	
	)	
vs.	)	
	)	
Danny K. Choi, and Melinda A. Choi,	)	
	)	
Applicants.	)	
	)	

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**APPLICANTS' ANSWER TO NOTICE OF OPPOSITION**

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

Applicants, Danny K. Choi and Melinda A. Choi (hereinafter "Applicants"), hereby answer each and every allegation recited in the above-captioned Notice of Opposition as follows:

1. Applicants are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 1 and therefore deny the same.
2. Applicants are without knowledge or information sufficient for form a belief as to the truth of the allegations of Paragraph 2 and therefore deny the same.
3. Applicants are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 3 and therefore deny the same.

4. Applicants are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 4 and therefore deny the same.

5. Applicants are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 5 and therefore deny the same.

6. Applicants are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 6 and therefore deny the same.

7. Applicants are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 7 and therefore deny the same.

8. Applicants are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 8 and therefore deny the same.

9. Applicants are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 9 and therefore deny the same.

10. Applicants are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 10 and therefore deny the same.

11. Applicants are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 11 and therefore deny the same.

12. Applicants admit the allegations of Paragraph 12.

13. Applicants deny the allegations of Paragraph 13.

14. Applicants deny the allegations of Paragraph 14.

15. Applicants admit that their mark SWIPEFORHUMANITY is for financial services to initiate support to charity programs, but otherwise deny the remaining allegations in Paragraph 15.

16. Applicants deny the allegations of Paragraph 16.

17. Applicants deny the allegations of Paragraph 17.

18. Applicants deny the allegations of Paragraph 18.

### **AFFIRMATIVE DEFENSES**

Applicants set forth below their affirmative defenses. By setting forth these affirmative defenses, Applicants do not assume the burden of proving any fact, issue, or element of a cause of action where such burden properly belongs to Opposer. Moreover, nothing stated herein is intended or shall be construed as an acknowledgement that any particular issue or subject matter is relevant to Opposer's allegations.

1. Opposer has failed to state a claim upon which relief can be granted.

2. Opposer's claims are precluded by the doctrines of Estoppel and Acquiescence.

3. Opposer will not be damaged by registration of Applicants' Mark.

4. Opposer is barred, in whole or in part, from relief by the Doctrine of Waiver.

5. Opposer is barred, in whole or in part, from relief by the Doctrine of Laches.

6. Opposer is barred, in whole or in part, from relief by the Doctrine of Unclean Hands.

7. Applicants allege that their conduct was at all times lawful, privileged, justified, reasonable, and in good faith, based upon the relevant facts known at the time they acted.

8. Opposer's claims are barred, in whole or in part, since there is no likelihood of confusion in the marketplace.

9. Applicants have made fair use of their SWIPEFORHUMANITY mark.

10. Opposer's claims are barred by the Doctrine of Fraud on the United States Patent and Trademark Office for failing to disclose that the word Humanity is in wide use by third parties in relation to financial and electronic transaction services for supporting charitable contributions and donations and is generic and/or descriptive for the same.


11. Applicants hereby gives notice that they intend to rely on any additional affirmative defenses that become available or apparent during discovery and thus reserve the right to amend their answer to assert such additional affirmative defenses.

WHEREFORE, Applicants pray that this opposition to Applicant Serial No. 85/451,415 be denied and that registration for its mark SWIPEFORHUMANITY be granted.

Respectfully submitted,

STETINA BRUNDA GARRED & BRUCKER

Dated: 6/7/12

  
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(949) 855-1246  
Counsel for Applicant

**PROOF OF SERVICE**

State of California     )  
                                      ) ss.  
County of Orange     )

I am over the age of 18 and not a party to the within action; my business address is 75 Enterprise, Suite 250, Aliso Viejo, California 92656. On **June 7, 2012**, the attached **APPLICANT'S RESPONSES TO OPPOSER'S REQUESTS FOR PRODUCTION OF DOCUMENTS (NOS. 1-57)** was served on all interested parties in this action by U.S. Mail, postage prepaid, at the address as follows:

Samantha L. Hayes  
Kilpatrick Townsend & Stockton LLP  
1100 Peachtree Street, Suite 2800  
Atlanta, GA 30309

William M. Bryner  
Kilpatrick Townsend & Stockton LLP  
1001 West Fourth Street  
Winston-Salem, NC 27101

Executed on **June 7, 2012** at Aliso Viejo, California. I declare under penalty of perjury that the above is true and correct. I declare that I am employed in the office of STETINA BRUNDA GARRED & BRUCKER at whose direction service was made.

  
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Tara Hamilton